



POLICE DEPARTMENT

August 13, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Christopher Lembo
Tax Registry No. 930552
10 Precinct
Disciplinary Case Nos. 2014-11416

The above-named member of the Department appeared before me on April 15 and June 23, 2015, charged with the following:

1. Said officer Christopher Lembo, on or about April 10th, 2013, at approximately 2040 hours while assigned to the 10th Precinct and on duty at the 10th Precinct Station House, New York County, was discourteous in that he stated to Ms. Dawn Sillekens in sum and substance: I OWN YOU NOW. YOU BELONG TO ME. OH, DO YOU NEED YOUR CAGE CHANGED? MY DOG HAS ENOUGH SENSE NOT TO PEE IN IT'S CAGE.

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL

The Civilian Complaint Review Board (CCRB) was represented by Raasheja Page, Esq.
Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The CCRB called Dawn Sillekens and Warren Holloway as witnesses. Respondent called Police Officer Matthew Powletz as a witness, and he testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty in Part of discourtesy, in that he said to Sillekens in sum and substance, "I own you," and "My dog has enough sense not to pee in its cage".

FINDINGS AND ANALYSIS

It is undisputed that on April 10, 2013, at approximately 8:40 p.m., Dawn Sillekens and Warren Holloway were in the Dallas BBQ restaurant at 23rd Street and 8th Avenue in Manhattan. They were not able to pay their bill and the police were called. Respondent and other officers arrived at the scene. Respondent testified that Sillekens was not intoxicated when he encountered her. (Tr. 119). Sillekens and Holloway were arrested for theft of services and removed to the 10 Precinct. At the Precinct, Holloway was placed on a bench and handcuffed to a rail and Sillekens was placed in a nearby cell. While in the cell, Sillekens urinated on the floor.

The relevant area of inquiry in this case is what, if anything, was said by Respondent to Sillekens while they were at the 10 Precinct. Respondent is charged with violating P.G. 203-09, paragraph 2 by being disrespectful to Sillekens by saying in sum and substance: I own you now. You belong to me. Oh, do you need your cage changed? My dog has enough sense not to pee in its cage.

Sillekens and Holloway both testified that Respondent came back to the cell area on several occasions, taunted Sillekens (Tr. 23-24, 62), said he owned her (Tr. 24, 62) and called her an animal (Tr. 27, 64). Sillekens said that after she urinated on the floor, Respondent said to her that, "even his dog was better trained than that," and she took this to mean he was making reference to her as a dog. (Tr. 27). Both Holloway and Sillekens acknowledged that Sillekens was angry and was yelling while she was in the cell. (Tr. 26, 37-38, 63). Sillekens admitted she

used profanity and cursed at Respondent. (Tr. 38). Sillekens and Holloway described Sillekens as asking Respondent, and yelling out to other officers several times, to use the bathroom. (Tr. 27, 66). Holloway stated that the officers' responses to these requests were laughs and "mockery". (Tr. 66). He added that he was allowed to use the bathroom when he asked. (Tr. 67).

Respondent testified and admitted saying, "my dog has enough sense to go outside of his cage," but denied saying any of the other phrases in the charge. (Tr. 114-16, 121). He stated that Sillekens was loudly cursing at him at the Precinct. (Tr. 110). He testified that he was doing the arrest paperwork on a computer in front of the holding cell area and he didn't recall her asking anyone to use the bathroom. (Tr. 113). Respondent further testified that while approximately 20-25 officers were looking to see what Sillekens was doing and were laughing, he thought they "were more making fun of me than her because I had to deal with it." (Tr. 122-23).

The defense also called Officer Powletz to testify. While he testified about events that took place prior to the time the alleged remarks were made by Respondent, his testimony was of little value in deciding this case since he also testified he never heard anything, including what Respondent admitted to, being said by Respondent to Sillekens. (Tr. 99).

The Specification charges Respondent with making four statements to Sillekens. I find Respondent Not Guilty of saying in sum and substance, "You belong to me", or, "Oh, do you need your cage changed?" Respondent denied making these statements and neither Sillekens nor Holloway provided evidence to support these statements being made to Sillekens.

I find Respondent Guilty of saying in sum and substance, "My dog has enough sense not to pee in its cage". Respondent has admitted to saying he told Sillekens his dog had enough sense to go outside of his cage. (Tr. 121). This statement is discourteous and in sum and substance is equivalent to the statement in the Specification.

In addition, I find Respondent Guilty of saying in sum and substance, "I own you now," to Sillekens. Both Sillekens and Holloway testified to hearing Respondent say to Sillekens that he owned her. While Sillekens may have been angry at Respondent, Holloway by all accounts did not provide any resistance to being arrested and did not have any disruptive behavior while at the Precinct. There is also no dispute that he was in an area of the Precinct that was very close in relation to where Sillekens was in the cell. He would have been able to see and hear any interaction between Sillekens and Respondent which occurred in the cell area. Also, his testimony was even-handed and credible, in that he readily admitted that Sillekens was angry and using profanity while she was in the cell. Accordingly, I credit his account of Respondent's behavior and statements at the Precinct.

While it is clear from all the testimony that Sillekens was using profanity and was yelling while in the cell, that still did not give Respondent reason to respond in kind. The two statements he is guilty of making to her are at best mocking and at worst degrading. Neither can be permitted.

PENALTY

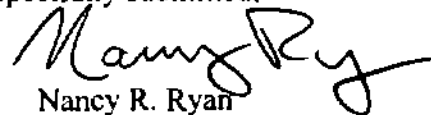
In order to determine an appropriate penalty, Respondent's service record was examined. See *Mutter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 1, 2002. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found guilty of discourteously comparing a prisoner to a dog and saying he owned her. The CCRB recommended a penalty of no less than eight days. In recent cases, police officers with no prior disciplinary history forfeited five vacation days for speaking

discourteously to members of the public. See Disciplinary Case No. 2013-9862 (Jun. 17, 2014); Disciplinary Case Nos. 11401/14 & 11402/14 (Jan. 29 2015).

In light of Respondent's prior disciplinary record, the CCRB's penalty recommendation seems appropriate. Accordingly, it is recommended that he forfeit a penalty of eight vacation days.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner – Trials

APPROVED

SEP 10 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTOPHER LEMBO
TAX REGISTRY NO. 930552
DISCIPLINARY CASE NO. 2014-11416

On his last three performance evaluations, Respondent received an overall rating of 3.5 "Highly Competent/Competent" twice and 3.0 "Competent" once. He has been awarded two medals for Meritorious Police Duty. [REDACTED]

Respondent has been the subject of one prior adjudication. In 2009, he forfeited 30 pre-trial suspension days for making an unauthorized radio transmission in which he referred to a UMOS as an "Idiot Officer."

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner – Trials